

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
PINE BLUFF DIVISION**

**JACK GORDON GREENE**

**PETITIONER**

**5:04-CV-00373 WRW**

**LARRY NORRIS, Director of the  
Arkansas Department of Correction**

**RESPONDENT**

**ORDER**

Pending is Petitioner's Motion for Reconsideration or in the Alternative for Stay Pending Appeal (Doc. No. 42). Specifically, Petitioner requests the Court to reconsider the June 10, 2009 Order<sup>1</sup> granting Respondent's Motion for Order Permitting Access to Petitioner for Psychological Evaluation<sup>2</sup> and permitting Respondent's expert to conduct an evaluation of Petitioner on June 16 and 17, 2009. Petitioner asserts Fifth Amendment protections against self-incrimination as the basis for his objection to the Court's recent order.<sup>3</sup> Respondent opposes the motion, stating that there is no requirement that Respondent wait until Petitioner's expert has completed his evaluation of Petitioner before Respondent's expert may evaluate Petitioner.<sup>4</sup>

Without addressing Petitioner's arguments, and based on the fact that Respondent's expert is available to evaluate Petitioner after July 13, 2009,<sup>5</sup> the date set for disclosure of

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<sup>1</sup>Doc. No. 41.

<sup>2</sup>Doc. No. 32.

<sup>3</sup>This is the first time that Petitioner has raised the Fifth Amendment as a reason why Respondent's expert is not permitted to examine Petitioner until Petitioner's expert has completed his evaluation of Petitioner.

<sup>4</sup>Doc. No. 43. Respondent also opposes Petitioner's request for stay pending appeal.

<sup>5</sup>Respondent informed my staff, via telephone, that their expert would be able to evaluate Petitioner after July 13, 2009.

Petitioner's expert report, Petitioner's Motion for Reconsideration (Doc. No. 42) is **GRANTED**.

Accordingly, Respondent's motion for access to Petitioner (Doc. No. 32) is **DENIED**, but all other rulings in the June 10, 2009, Order (Doc. No. 41) remain in effect.

Based on this Order, the Arkansas Department of Correction is no longer directed to permit a special contact visit on June 16 and 17, 2009, between Petitioner and Dr. Roger Moore. Respondent may renew the Motion for Order Permitting Access to Petitioner for Psychological Evaluation after determining a new exam date, convenient to their expert.

IT IS SO ORDERED this 12th day of June, 2009.

/s/ Wm. R. Wilson, Jr.  
UNITED STATES DISTRICT JUDGE